

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Petition by RCC Minnesota, Inc.	)	DA-04-2911
And Wireless Alliance, LLC, pursuant	)	
To 47 C.F.R. Section 54.207(c), for	)	
Commission Agreement in Redefining	)	
The Service Areas of Rural Telephone	)	
Companies in the State of Minnesota	)	

**COMMENTS OF  
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC**

Citizens Telecommunications Company of Minnesota, LLC (“Citizens”) submits these Comments in response to the September 9, 2004 Public Notice of the Federal Communications Commission (“FCC”) regarding a petition by RCC Minnesota, Inc. and Wireless Alliance, LLC (collectively “RCC”) requesting FCC agreement with the Minnesota Public Utilities Commission’s (“Minnesota Commission”) proposed redefinition for service areas of the Benton Cooperative Telephone Company (“Benton Cooperative”) and the Sherburne County Rural Telephone Company (“Sherburne Telephone Company”).

On August 27, 2004, RCC filed the current petition seeking FCC “concurrence with the decision of the Minnesota Public Utilities Commission” to redefine the service areas of Benton Cooperative and Sherburne Telephone Company.<sup>1</sup> RCC asserted that “the MPUC granted RCC’s request that each partially-covered rural LEC service area be redefined such that each wire center is a separate service area.”<sup>2</sup> Specifically, RCC’s petition to the FCC sought “the FCC’s agreement with the decision of the Minnesota Public Utilities Commission (MPUC) to redefine the service areas of the rural incumbent local exchange carriers (ILECs) listed in

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<sup>1</sup> Page 1 of the Summary of the RCC petition.

<sup>2</sup> Page 1 of the Summary of the RCC petition.

Attachment A hereto.”<sup>3</sup> Further, “RCC requests that the service areas of Benton and Sherburne be redefined so that each wire center is a separate service area.”<sup>4</sup>

The RCC petition filed with the Commission on August 27, 2004 is not consistent with the July 31, 2003 Order of the Minnesota Commission with respect to the areas in which RCC was designated as an ETC or regarding the redefinition of the service areas of the Benton Cooperative or Sherburne Telephone Company. Essentially, the RCC petition seeks FCC approval to expand RCC’s ETC area beyond the area identified in the Minnesota Commission’s Order and to adopt an entirely new redefinition plan. Citizens urges the FCC to reject RCC’s petition with respect to the five Minnesota wire centers in which RCC is not licensed to provide service throughout the entire wire center.

## **I. MINNESOTA COMMISSION ETC ORDER**

On August 10, 2002, RCC filed a petition with the Minnesota Commission seeking designation as an Eligible Telecommunications Carrier (“ETC”) for the areas where RCC was authorized by the FCC to provide cellular telecommunications service. These areas included the following Rural Service Areas: Minnesota-1, Minnesota-2, Minnesota-3, Minnesota-5, and Minnesota-6. RCC also requested ETC status within its licensed service territory in the rural areas within the Minneapolis MTA. This area covers the service territory of Qwest (a non-rural telephone company) and numerous rural local exchange carriers.

In its ETC petition filed with the Minnesota Commission, RCC noted that its FCC licensed service area was not congruent with the existing incumbent local exchange carrier exchange boundaries and study areas. To facilitate its designation as an ETC, RCC asked the Minnesota Commission to seek the redefinition of the service areas of several rural exchange carriers below the study area level. RCC’s petition to the Minnesota Commission listed its desired redefinition scheme on a wire center by wire center basis, in a series of attachments. That listing is shown in Attachment I accompanying this filing.

As is evident from Attachment I, RCC requested that the redefinition be done generally at the wire center level. However, with respect to five wire centers, RCC’s licensed territory only

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<sup>3</sup> Page 1 of the Petition.

<sup>4</sup> Page 5 of the Petition.

covered a portion of a rural telephone company's wire center. In those cases, RCC requested that the redefinition of the rural ILEC study areas be done at the sub-wire center level. Specifically, RCC was licensed to serve a portion of Citizens' Wyoming exchange. RCC requested that the Wyoming wire center redefinition split the wire center in two, between the area served by RCC and the rest of the wire center. Also of particular interest, RCC requested that the Minnesota Commission redefine the ETC service areas of Benton Cooperative and Sherburne Telephone Company. RCC asked to be designated as an ETC only in portions of Benton Cooperative's Foreston and Ramey exchanges. Similarly, RCC requested be designated as an ETC in only a portion of Sherburne Telephone Company's Glendorado exchange and Mid-State Telephone Company's Murdock exchange.

The Minnesota Commission's July 31, 2003 Order describes RCC's redefinition request:

*"RCC requested that the Commission redefine the service areas of the rural ILECs in the territory in which it operates to conform to its licensed service area. It proposed that these areas be redefined so that each wire center is a separate service area and RCC's service area be defined consistent with those wire centers. Where RCC serves only a portion of a wire center, RCC's service area would be the portion of the wire center which it serves.*

*RCC is seeking disaggregation below the exchange level in the following exchanges: Benton Cooperative Telephone Company's Foreston and Ramey exchanges, Citizens Telephone Company's Wyoming exchange, MidState Telephone Company's Murdock exchange, and Sherburne County Rural Telephone Company's Glendorado exchange."*<sup>5</sup>

The Administrative Law Judge ("ALJ") accepted this redefinition plan proposed by RCC. In its July 31, 2003 Order, the Minnesota Commission granted RCC's requests and designated it as an ETC in the wire centers (or portions of wire centers) RCC had identified in its August 10, 2002 Petition. The Minnesota Commission accepted the ALJ's recommendation in its July 31, 2003 Order:

*1. The Commission hereby accepts, adopts and incorporates the ALJ's Findings of Fact, Conclusions of Law and Recommendation, including the following exchanges where RCC seeks disaggregation below the exchange level: Benton Cooperative Telephone Company's Foreston and Ramey exchanges, Citizens Telephone Company's Wyoming*

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<sup>5</sup> Pages 10 and 11 of the Order.

*exchange, MidState Telephone Company's Murdock exchange, and Sherburne County Rural Telephone Company's Glendorado exchange."*<sup>6</sup>

With respect to Citizens, the Minnesota Commission designated RCC as an ETC for the portion of Citizens' Wyoming exchange covered by RCC's federal CMRS license, but did not designate RCC as an ETC in the portion of the Wyoming exchange not covered by RCC's federal license. With respect to Benton Cooperative, the Minnesota Commission designated RCC as an ETC only in the portions of the Foreston and Ramey exchanges covered by RCC's CMRS license, but did not designate RCC as an ETC in the portions of those exchanges not covered by RCC's CMRS license. With respect to Sherburne Telephone Company, the Minnesota Commission designated RCC as an ETC for the portion of the Glendorado exchange covered by RCC's federal CMRS license, but did not designate RCC as an ETC in the portion of the Glendorado exchange not covered by RCC's federal license. With respect to Mid-State Telephone Company, the Minnesota Commission designated RCC as an ETC for the portion of the Murdock exchange covered by RCC's federal CMRS license, but did not designate RCC as an ETC in the portion of the exchange not covered by RCC's federal license.

## **II. DISCUSSION**

As noted above, RCC proposed and won its desired redefinition plan from the Minnesota Commission. A salient point of that redefinition plan was the sub-wire center redefinitions of a five Minnesota ILEC exchanges: Benton Cooperative's (1) Foreston and (2) Ramey exchanges, Citizens' (3) Wyoming exchange, Mid-State Telephone Company's (4) Murdock exchange, and Sherburne Telephone Company's (5) Glendorado exchange.

RCC's August 27, 2004 petition to the Commission, however, only addresses three of the partially served exchanges: the Benton Cooperative Foreston and Ramey exchanges and the Sherburne Telephone Company Glendorado exchange. It does not seek redefinition of or otherwise address Citizens' Wyoming exchange for which RCC was only designated an ETC in part of the exchange that is within its CMRS license area. Similarly, RCC's petition to the FCC does not seek redefinition of the Mid-State Telephone Company Murdock exchanges for which RCC was designated as an ETC in a portion of the exchange by the Minnesota Commission.

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<sup>6</sup> Ordering Clause 1 of the July 31, 2003 Order.

Instead, RCC asserts that if the Commission concurs with the Minnesota Commission's request to redefine twelve rural LEC services areas in the pending Midwest Wireless Communications LLC proceeding,<sup>7</sup> the service areas of Citizens and Mid-State Telephone Company will be redefined to the wire center level and the Commission need not take any further action with respect to the Citizens' Wyoming and Mid-State Telephone Company Murdock exchange. However, with respect to the Wyoming and Murdock exchanges, it is irrelevant what the Minnesota Commission did in the Midwest Wireless proceeding. In the RCC ETC proceeding, the Minnesota Commission clearly did not propose to redefine them on a wire center basis. Rather, the Minnesota Commission proposed sub-wire center redefinition consistent with RCC's request. The RCC petition to the FCC incorrectly asserts that the Minnesota Commission proposed to redefine these exchanges on a wire center basis, and asks the FCC to concur with these redefinitions for the entire geographic area of these three exchanges. However, there is no basis for the FCC to accept or concur with the redefinition of Citizens' Wyoming exchange or the Mid-State Telephone Company Murdock exchange since the Minnesota Commission did not designate RCC as an ETC in the entirety of these three exchanges. The FCC should not indirectly expand RCC's ETC service area in these three exchanges beyond the area in which the Minnesota Commission granted RCC ETC status.

With respect to sub-wire center redefinition of the Benton Cooperative and Sherburne Telephone Company service areas, it appears RCC is attempting to transform the Minnesota Commission Order into a study area redefinition plan that does not contain sub-wire center redefinition. RCC asserts that the Minnesota Commission Order redefined the service areas of Benton Cooperative and Sherburne Telephone Company so that each wire center is a separate service area. As is clear from the language quoted above from the Minnesota Commission's July 31, 2003 Order, this interpretation of the Order is incorrect. The Minnesota Commission only designated RCC as an ETC in the portions of the Benton Cooperative and Sherburne Telephone Company exchanges that were within RCC's CMRS license area. Therefore, the Commission should not accept RCC's request in its August 27, 2004 Commission petition that the Commission concur with a redefinition plan at the wire center level.

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<sup>7</sup> Wireline Competition Bureau Initiates Proceeding to Consider the Minnesota Public Utilities Commission Petition to Redefine Rural Telephone Company Service Areas in the State of Minnesota, Public Notice, DA 03-3594 (rel. Nov. 7, 2003).

In addition, the Minnesota's Commission's proposed redefinition below the wire center level in Benton Cooperative's (1) Foreston and (2) Ramey exchanges, Citizens' (3) Wyoming exchange, Mid-State Telephone Company's (4) Murdock exchange, and Sherburne Telephone Company's (5) Glendorado exchange is clearly at odds with the FCC's decision in its *Virginia Cellular Order*<sup>8</sup> and *Highland Cellular Order*,<sup>9</sup> that sub-wire center redefinitions are not in the public interest. In the *Highland Cellular Order*, the FCC concluded, among other things, that a carrier in a rural study area may not be designated as a competitive ETC below the wire center level.<sup>10</sup> Highland Cellular had requested ETC designation for a service area that overlaps, among other areas, the study areas of three rural telephone companies. The FCC found that the designation of Highland Cellular as an ETC in certain areas served by two of the three rural companies was in the public interest and furthered the goals of universal service. With regard to the study area of Verizon South, Inc. and the Saltville wire center of United Telephone Company - Southeast Virginia the FCC did not find that ETC designation would be in the public interest. The Commission explained:

*Although the Wireline Competition Bureau previously designated an ETC for portions of a rural telephone company's wire center, we conclude that making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest. In particular, we conclude, that prior to designating an additional ETC in a rural telephone company's service area, the competitor must commit to provide the supported services to customers throughout a minimum geographic area. A rural telephone company's wire center is an appropriate minimum geographic area for ETC designation because rural carrier wire centers typically correspond with county and/or town lines. We believe that requiring a competitive ETC to serve entire communities will make it less likely that the competitor will relinquish its ETC designation at a later date. Because consumers in rural areas tend to have fewer competitive alternatives than consumers in urban areas, such consumers are more vulnerable to carriers relinquishing ETC designation.*<sup>11</sup>

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<sup>8</sup> See Federal-State Joint Board on Universal Service, *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan. 22, 2004) (*Virginia Cellular Order*).

<sup>9</sup> See Federal-State Joint Board on Universal Service, *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) (*Highland Cellular Order*).

<sup>10</sup> See *Highland Cellular Order* at para. 33.

<sup>11</sup> See *Highland Cellular Order* at para. 33

It is clear that the FCC intended its *Highland Cellular* decision (along with the earlier *Virginia Cellular* decision) to set forth a new framework that would apply to all ETC designations in rural areas. The FCC was unequivocal that an ETC “must commit to provide supported services”<sup>12</sup> to a minimum geographic area and that minimum geographic area was the “wire center”.

The Minnesota Commission’s proposal to disaggregate the Minnesota rural ILECs study areas to cover only portions of a rural wire center is in direct conflict with the standard set forth in the FCC’s *Highland Cellular* order. Therefore, the Commission should decline to concur with the Minnesota Commission’s petition to redefine ETC service areas, so far as it would establish a study area definition below the wire center level. The FCC should not concur with the Minnesota Commission’s proposed redefinition for the Benton Cooperative’s (1) Foreston and (2) Ramey exchanges, Citizens’ (3) Wyoming exchange, Mid-State Telephone Company’s (4) Murdock exchange, and Sherburne Telephone Company’s (5) Glendorado exchange.

### **III. CONCLUSION**

The service area redefinition RCC seeks in its current petition to the Commission is inconsistent with the Minnesota Commission’s July 31, 2003 Order. Essentially, RCC is asking the FCC to expand the area in which it has been designated as an ETC and to create a completely new redefinition scheme. The FCC has no basis to do so. Citizens urges the Commission to reject the RCC petition with respect to the five exchanges within RCC licensed area that RCC will not entirely serve and for which the Minnesota Commission proposed sub-wire center disaggregation.

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<sup>12</sup> See *Highland Cellular Order* at para. 33

Dated September 23, 2004

Respectfully Submitted,

A handwritten signature in cursive script that reads "Kevin Saville". The signature is written in dark ink and is positioned above the printed contact information.

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